

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2007-1211-MWD-E TCEQ ID: RN102287604 CASE NO.: 34321**  
**RESPONDENT NAME: D & M WATER SUPPLY CORPORATION**

Page 1 of 2

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATION(S) OCCURRED:** approximately 6,500 feet west-southwest of the intersection of Farm-to-Market Road ("FM") 3228 and FM 1275, Nacogdoches, Nacogdoches County

**TYPE OF OPERATION:** Wastewater treatment plant

**SMALL BUSINESS:** ☒ Yes ☐ No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional enforcement actions pending against this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired July 27, 2009. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Mr. Xavier Guerra, Litigation Division, MC R-13, (210) 403-4016  
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

**SEP Coordinator:** Ms. Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223

**TCEQ Enforcement Coordinator:** Mr. Thomas Jecha, AIR Enforcement Section, MC 128, (512) 239-2576

**TCEQ Regional Contact:** Mr. Ronald Hebert, Beaumont Regional Office, MC R-10, (409) 898-3838

**Respondent:** Mr. James J. Crouch, President, D & M Water Supply Corporation, P.O. Box 9, Douglas, Texas 75943-0009

**Respondent's Attorney:** Mr. Timothy J. Karczewski, Law Offices of John D. Stover, P.O. Box 154540, Lufkin, Texas 75904

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint</p> <p><input checked="" type="checkbox"/> Routine</p> <p><input type="checkbox"/> Enforcement Follow-up</p> <p><input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> May 21, 2007</p> <p><b>Date of NOE Relating to this Case:</b> July 19, 2007</p> <p><b>Background Facts:</b> The EDRP was filed November 16, 2007. The Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the Agreed Order was signed on May 28, 2009.</p> <p><b>Current Compliance Status:</b> The Respondent has not yet submitted documentation to certify compliance with the technical requirements.</p> <p><b>MWD:</b></p> <ol style="list-style-type: none"> <li>Failed to comply with permitted effluent limitations [30 TEX. ADMIN. CODE § 305.125(1); TPDES Permit No. 13927001, Effluent Limitations and Monitoring Requirements Nos. 1, 6, and 9; TCEQ Agreed Order Docket No. 2005-1625-MWD-E, Ordering Provision No. 2; and TEX. WATER CODE §§ 7.051(a)(1)(B) and 26.121(a)].</li> <li>Failed to submit effluent noncompliance notification reports as required by the permit [30 TEX. ADMIN. CODE § 305.125(1)] and TPDES Permit No. 13927001, Monitoring and Reporting Requirements No. 7(c)].</li> <li>Failed to provide standby pumps for lift stations [30 TEX. ADMIN. CODE §§ 305.125(1) and 317.3(b)(1), and TPDES Permit No. 13927001, Operational Requirements No. 1].</li> <li>Failed to ensure that the Facility and all of its systems of collection, treatment, and disposal are properly maintained [30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. 13927001, Operational Requirements No. 1].</li> <li>Failed to collect effluent monitoring samples at a frequency required by the permit [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 13927001, Effluent Limitations and Monitoring Requirements, No. 1].</li> </ol>	<p><b>Total Assessed:</b> \$ 28,980</p> <p><b>Total Deferred:</b> \$28,980</p> <p><input type="checkbox"/> Expedited Order</p> <p><input type="checkbox"/> Financial Inability to Pay</p> <p><input checked="" type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$0</p> <p>\$28,980 of the administrative penalty shall be conditionally offset by the completion of a Supplemental Environmental Project (SEP).</p> <p><b>Site Compliance History Classification</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Order Justification:</b> Indifference to legal duty for violation of a previous agreed order (2005-1625-MWD-E)</p>	<p><b>Ordering Provision(s):</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <p>Implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A).</p> <ol style="list-style-type: none"> <li>Immediately, develop and implement procedures to ensure that noncompliance notification reports are submitted, and begin submitting noncompliance notification to the TCEQ Beaumont Regional Office, for all effluent violations that deviate from the permit limit by more than 40 percent.</li> <li>Within 30 days: <ol style="list-style-type: none"> <li>Ensure that all systems of collection, treatment, and disposal are properly operated and maintained including removal of grease from the surface areas of lift stations A and B; and</li> <li>Develop and implement procedures to ensure that effluent monitoring samples are collected at a frequency required by the permit.</li> </ol> </li> <li>Within 60 days, install an additional discharge pump to ensure a firm pumping capacity with the largest pump out-of-service.</li> <li>Within 75 days, submit written certification demonstrating compliance.</li> </ol>

Attachment A  
Docket Number: 2007-1211-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	D & M Water Supply Corporation
Penalty Amount:	Twenty-eight thousand nine hundred eighty dollars (\$28,980)
SEP Offset Amount:	Twenty-eight thousand nine hundred eighty dollars (\$28,980)
Type of SEP:	Pre-approved SEP
Third-Party Recipient:	Texas Association of Resource Conservation & Development Areas, Inc. ("RC&D") <i>Water or Wastewater Assistance</i>
Location of SEP:	Nacogdoches County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. **Project Description**

A. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")** for the *Water or Wastewater Assistance project*. Specifically, SEP monies will pay for the labor and disposal costs associated with assistance to low-income residents with shallow, improperly designed, or contaminated drinking water wells or failing wastewater systems, or plugging of abandoned wells. The projects will be administered in accordance with federal, state, and local environmental laws and regulations.

Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

The wastewater portion of this SEP will provide a discernible environmental benefit by preventing the release of sewage into the environment. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis. People can be exposed through:

- Sewage in drinking water sources.
- Direct contact in areas of public access such as in lawns or streets, or waters used for recreation.

- Shellfish harvested from areas contaminated by raw sewage.
- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

The drinking water portion of this project will protect water sources for drinking, recreation and wildlife from contamination from the failing treatment systems, and protect public health from contaminated drinking water supplies.

C. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Upon the Effective Date of this Agreed Order, the Respondent shall contribute \$16,980 to the Third Party Recipient. Within 30 days after the effective date of this Agreed Order, the Respondent shall begin making monthly contributions to the Third Party Recipient on the following payment schedule: one contribution of \$1,000 followed by eleven monthly contributions of \$1,000. The total amount of the contributions to the Third Party Recipient will be \$28,980. The Respondent shall ensure that these contributions have been completed within 13 months of the Effective Date of this Agreed Order. The Respondent shall mail a copy of the Final Agreed Order with the first contribution to:

Texas Association of Resource Conservation  
and Development Areas, Inc. (RC&D)  
1716 Briarcrest Drive Suite 510  
Bryan, Texas 77802-2700

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall submit a check for any remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the docket number of the case, and shall send it to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision June 26, 2007

DATES	Assigned	23-Jul-2007	Screening	26-Jul-2007	EPA Due	
	PCW	24-Mar-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	D & M Water Supply Corporation
Reg. Ent. Ref. No.	RN102287604
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor

<b>CASE INFORMATION</b>				
Enf./Case ID No.	34321	No. of Violations	5	
Docket No.	2007-1211-MWD-E	Order Type	Findings	
Media Program(s)	Water Quality	Enf. Coordinator	Thomas Jecha	
Multi-Media		EC's Team	Enforcement Team 3	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1 **\$11,500**

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** 177% Enhancement Subtotals 2, 3, & 7 **\$20,355**

Notes: Enhancement for 29 NOV's with self-reported effluent data, two NOV's with same or similar violations, one NOV with dissimilar violations, and one order with a denial of liability issued to this facility within the past five years.

**Culpability** No 0% Enhancement Subtotal 4 **\$0**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** 0% Reduction Subtotal 5 **\$0**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

**Total EB Amounts** \$832 **0% Enhancement\*** Subtotal 6 **\$0**  
**Approx. Cost of Compliance** \$3,500 **\*Capped at the Total EB \$ Amount**

**SUM OF SUBTOTALS 1-7** Final Subtotal **\$31,855**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** -9% Adjustment **-\$2,875**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes: Recommended penalty reduction so that monthly self-reported violations do not overly-impact the penalty amount.

**Final Penalty Amount** **\$28,980**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty **\$28,980**

**DEFERRAL** 0% Reduction Adjustment **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

**PAYABLE PENALTY** **\$28,980**

Screening Date 26-Jul-2007

Docket No. 2007-1211-MWD-E

PCW

Respondent D &amp; M Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 34321

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN102287604

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	31	155%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 177%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

Enhancement for 29 NOVs with self-reported effluent data, two NOV's with same or similar violations, one NOV with dissimilar violations, and one order with a denial of liability issued to this facility within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 177%

<b>Screening Date</b> 26-Jul-2007		<b>Docket No.</b> 2007-1211-MWD-E		<b>PCW</b>		
<b>Respondent</b> D & M Water Supply Corporation				<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b> 34321				<i>PCW Revision June 26, 2007</i>		
<b>Reg. Ent. Reference No.</b> RN102287604						
<b>Media [Statute]</b> Water Quality						
<b>Enf. Coordinator</b> Thomas Jecha						
<b>Violation Number</b>		<div style="border: 1px solid black; padding: 2px;">1</div>				
<b>Rule Cite(s)</b>		<div style="border: 1px solid black; padding: 2px;">TCEQ Agreed Order Docket No. 2005-1625-MWD-E (Ordering Provision No. 2), Tex. Water Code § 7.051(a)(1)(B), Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. 13927001, Effluent Limitations and Monitoring Requirements Nos. 1, 6, and 9</div>				
<b>Violation Description</b>		<div style="border: 1px solid black; padding: 2px;">Failed to comply with permitted effluent limitations. See attached table.</div>				
				<b>Base Penalty</b> <div style="border: 1px solid black; padding: 2px;">\$10,000</div>		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>						
OR	<b>Release</b>		<b>Harm</b>		<b>Percent</b> <div style="border: 1px solid black; padding: 2px;">10%</div>	
			Major	Moderate		Minor
	Actual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px; text-align: center;">x</div>		<div style="border: 1px solid black; width: 50px; height: 15px;"></div>
	Potential	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
<b>&gt;&gt; Programmatic Matrix</b>						
Matrix Notes	Falsification		Major	Moderate	Minor	<b>Percent</b> <div style="border: 1px solid black; padding: 2px;">0%</div>
		<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	
		<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	
<div style="border: 1px solid black; padding: 5px;">A simplified model was used to evaluate biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Flow, total suspended solids, and dissolved oxygen were also considered. As a result of this violation, human health or the environment has been exposed to insignificant amounts of pollutants which did not exceed protective levels.</div>						
				<b>Adjustment</b> <div style="border: 1px solid black; padding: 2px;">\$9,000</div>		
				<div style="border: 1px solid black; padding: 2px;">\$1,000</div>		
<b>Violation Events</b>						
<b>Number of Violation Events</b>		<div style="border: 1px solid black; padding: 2px;">6</div>		<b>Number of violation days</b> <div style="border: 1px solid black; padding: 2px;">274</div>		
mark only one with an x	daily	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>				
	monthly	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>				
	quarterly	<div style="border: 1px solid black; width: 50px; height: 15px; text-align: center;">x</div>				
	semiannual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>				
	annual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>				
	single event	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>				
<div style="border: 1px solid black; padding: 5px;">Six quarterly events are recommended from the Order effective date of February 20, 2006 until the July 26, 2007 screening date.</div>						
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>			
<b>Estimated EB Amount</b>		<div style="border: 1px solid black; padding: 2px;">\$115</div>		<b>Violation Final Penalty Total</b> <div style="border: 1px solid black; padding: 2px;">\$15,120</div>		
				<b>This violation Final Assessed Penalty (adjusted for limits)</b> <div style="border: 1px solid black; padding: 2px;">\$15,120</div>		



## table rev.

**Corresponds to Violation Number:**

1

### Permit Limit

Name	Abbreviation
milligrams per liter	mg/L
pounds per day	lbs/day
million gallons per day	MGD
total suspended solids	TSS
5-day biochemical oxygen demand	BOD <sub>5</sub>
carbonaceous biochemical oxygen demand	CBOD
ammonia-nitrogen	NH <sub>3</sub> -N
dissolved oxygen	DO
compliant (no excursions)	c

## Economic Benefit Worksheet

Respondent D &amp; M Water Supply Corporation

Case ID No. 34321

Reg. Ent. Reference No. RN102287604

Media Water Quality

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,000	20-Feb-2006	11-Jun-2008	2.3	\$115	n/a	\$115

Notes for DELAYED costs

The estimated cost for additional oversight and sampling which could have reduced or alleviated the exceedances from the first noncompliance until the expected date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$115

Screening Date 26-Jul-2007

Docket No. 2007-1211-MWD-E

PCW

Respondent D &amp; M Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 34321

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN102287604

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 13927001, Monitoring and Reporting Requirement No. 7(c)

Violation Description

Failed to submit effluent noncompliance notification reports as required by the permit. Specifically, noncompliance notification reports were not submitted for exceedances of the effluent permit limits by 40 percent or more during December 2006 and February and May 2007.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 3

90 Number of violation days

mark only one  
with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,000

Three single events are recommended (one for each report).

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$327

Violation Final Penalty Total \$7,560

This violation Final Assessed Penalty (adjusted for limits) \$7,560

**Economic Benefit Worksheet**

Respondent D &amp; M Water Supply Corporation

Case ID No. 34321

Reg. Ent. Reference No. RN102287604

Media Water Quality

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$100	20-Jan-2007	27-May-2008	1.4	\$7	n/a	\$7
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to develop and implement procedures to ensure effluent limit exceedances of 40 percent or more are reported from the date the December 2006 report was due until the expected date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$300	20-Jan-2007	20-Jun-2007	1.3	\$20	\$300	\$320

Notes for AVOIDED costs

Estimated cost of submitting the required notifications, based on \$100 per notification, from the date the December 2006 report was due until the date the May 2007 report was due.

Approx. Cost of Compliance

\$400

TOTAL

\$327

Screening Date 26-Jul-2007

Docket No. 2007-1211-MWD-E

PCW

Respondent D &amp; M Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 34321

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN102287604

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and 317.3(b)(1) and TPDES Permit No. 13927001, Operational Requirements, No. 1

Violation Description Failed to provide standby pumps for lift stations. Specifically, lift station A was equipped with only one operational pump.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			x

Percent 5%

## &gt;&gt; Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0%

Matrix Notes

Human health or the environment could be exposed to insignificant amounts of pollutants as a result of the violation.

Adjustment \$9,500

\$500

## Violation Events

Number of Violation Events 1

66 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$500

One single event is recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$71

Violation Final Penalty Total \$1,260

This violation Final Assessed Penalty (adjusted for limits) \$1,260

**Economic Benefit Worksheet**

Respondent D &amp; M Water Supply Corporation

Case ID No. 34321

Reg. Ent. Reference No. RN102287604

Media Water Quality

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment	\$1,000	21-May-2007	27-May-2008	1.0	\$3	\$68	\$71
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to provide an operational standby pump from the investigation date until the expected installation date.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$71

Screening Date 26-Jul-2007

Docket No. 2007-1211-MWD-E

PCW

Respondent D &amp; M Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 34321

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN102287604

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 305.125(5) and TPDES Permit No. 13927001, Operational Requirements No. 1

Violation Description

Failed to ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the surface areas of lift stations A and B were covered with 90 to 100 percent grease and a scoured area was observed along the interior dike between the facultative lagoon and the southeast corner of the final wetland cell.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			x

Percent 5%

## &gt;&gt; Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0%

Matrix Notes

Human health or the environment could be exposed to insignificant amounts of pollutants as a result of the violation.

Adjustment \$9,500

\$500

## Violation Events

Number of Violation Events 2

66 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$1,000

Two single events are recommended (one for each incident).

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$14

Violation Final Penalty Total \$2,520

This violation Final Assessed Penalty (adjusted for limits) \$2,520

## Economic Benefit Worksheet

Respondent D &amp; M Water Supply Corporation

Case ID No. 34321

Reg. Ent. Reference No. RN102287604

Media Water Quality

Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$200	21-May-2007	28-Apr-2006	0.9	\$1	\$13	\$13
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	21-May-2007	29-May-2007	0.0	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost (\$200) to remove and dispose of grease from two lift stations from the investigation date until the expected date of compliance and estimated cost (\$500) to repair the scoured area along the interior dike from the investigation date until the date the repairs were completed.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$700

TOTAL

\$14



Screening Date 26-Jul-2007

Docket No. 2007-1211-MWD-E

PCW

Respondent D &amp; M Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 34321

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN102287604

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 13927001, Effluent Limitations and Monitoring Requirements, No. 1

Violation Description

Failed to collect effluent monitoring samples at a frequency required by the permit. Specifically, no effluent samples were collected during discharge events that occurred from May 7 to 20, 2007 and during bypass pumping of effluent from the facultative lagoon initiated on May 14, 2007.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 5%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment could be exposed to insignificant amounts of pollutants as a result of the violation.

Adjustment \$9,500

\$500

## Violation Events

Number of Violation Events 2

14

Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$1,000

Two single events are recommended (one event for each incident).

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$305

Violation Final Penalty Total \$2,520

This violation Final Assessed Penalty (adjusted for limits) \$2,520

**Economic Benefit Worksheet**

Respondent D &amp; M Water Supply Corporation

Case ID No. 34321

Reg. Ent. Reference No. RN102287604

Media Water Quality

Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$100	7-May-2007	27-Apr-2008	1.0	\$5	n/a	\$5
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to develop and implement procedures to ensure effluent monitoring samples are collected at the proper frequency from the beginning of the discharge/bypass timeframe until the expected date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$300	7-May-2007	20-May-2007	0.0	\$0	\$300	\$300
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to collect effluent monitoring samples during discharge and bypass events from the beginning to the end of the discharge/bypass timeframe.

Approx. Cost of Compliance

\$400

TOTAL

\$305

# Compliance History

Customer/Respondent/Owner-Operator: CN600675698 D & M Water Supply Corporation Classification: AVERAGE Rating: 3.22  
 Regulated Entity: RN102287604 D & M WATER SUPPLY CORP Classification: AVERAGE  
 Site Rating: 3.22

ID Number(s): WASTEWATER PERMIT WQ0013927001  
 WASTEWATER PERMIT TPDES0118613  
 WASTEWATER PERMIT TX0118613

Location: S Nacogdoches, approx 6500 W-SW Intx FM 3228 & FM 1275 Rating Date: 9/1/2006 Repeat Violator: NO  
 & approx 12500 S-SE of intx FM 2863 & Loop 224

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: July 23, 2007

Agency Decision Requiring Compliance Enforcement

Compliance Period: July 23, 2002 to July 23, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Thomas Jecha Phone: 512 239 2576

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.

N/A Effective Date: 02/20/2006 ADMINORDER 2005-1625-MWD-E  
 Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT

Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 06/16/2003 (327074)
- 2 06/16/2003 (327075)
- 3 07/09/2003 (327076)
- 4 07/30/2003 (112917)
- 5 08/07/2003 (327077)
- 6 08/07/2003 (327078)
- 7 09/04/2003 (327079)
- 8 10/07/2003 (327080)
- 9 11/14/2003 (327081)
- 10 12/08/2003 (327082)
- 11 01/12/2004 (327083)
- 12 02/17/2004 (327071)
- 13 03/08/2004 (327072)
- 14 04/16/2004 (327073)

15	05/10/2004	(366846)
16	06/15/2004	(366847)
17	07/15/2004	(366848)
18	09/17/2004	(366849)
19	10/11/2004	(366850)
20	11/10/2004	(389951)
21	12/16/2004	(389952)
22	01/13/2005	(389953)
23	02/07/2005	(389949)
24	03/11/2005	(389950)
25	04/08/2005	(427458)
26	04/15/2005	(427455)
27	04/15/2005	(427456)
28	04/15/2005	(427457)
29	05/12/2005	(427459)
30	06/17/2005	(427460)
31	07/13/2005	(447504)
32	08/05/2005	(447505)
33	08/30/2005	(377299)
34	09/09/2005	(447506)
35	10/17/2005	(492399)
36	11/14/2005	(492400)
37	12/19/2005	(492401)
38	01/09/2006	(437573)
39	01/09/2006	(492402)
40	02/15/2006	(492397)
41	03/09/2006	(492398)
42	04/10/2006	(506242)
43	05/12/2006	(506243)
44	06/14/2006	(506244)
45	07/14/2006	(528479)
46	08/08/2006	(528480)
47	09/01/2006	(528481)
48	09/14/2006	(528482)
49	12/18/2006	(511554)
50	01/23/2007	(535682)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/01/2003 (112917)

Self Report? NO

Classification: Minor

Rqmt Prov: PERMIT WQ 13927-001

Description: Failure by D & M WSC to install a testable backflow prevention device on the potable water supply line to the wastewater treatment plant.

Self Report? NO

Classification: Minor

Rqmt Prov: PERMIT WQ 13927-001

Description: Failure by D & M WSC to maintain an adequate liner in the facultative lagoon to control seepage from the lagoon. On 6/3/03, the synthetic liner in the facultative lagoon was observed floating in two areas.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.11(d)

Rqmt Prov: PERMIT WQ 13927-001

Description: Failure by D&M WSC to provide an effluent flow measurement device that conforms to those established in 30 TAC 319.11(d) for an acceptable means of effluent flow determination.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 317 317.3(b)(6)[G]

Rqmt Prov: PERMIT WQ 13927-001

Description: Failure by D & M WSC to provide ventilation in Lift Stations A, B, C, and D. On 6/3/03, the four lift stations serving the collection system were observed to not support a ventilation system.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 317 317.3(e)(5)

Rqmt Prov: PERMIT WQ 13927-001

Description: Failure by D & M WSC to provide audible alarms in Lift Stations A, B, C, and D. On 6/3/03, the four lift stations serving the collection system were observed to not support an audio-visual system. The lift stations were only equipped with visual alarms.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 317 317.3(e)(5)

Rqmt Prov: PERMIT WQ 13927-001

Description: Failure by D & M WSC to provide an operational visual alarm in Lift Station C. On 6/3/03, the lift station was observed to not support a functioning visual alarm.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT WQ 13927-001

Description: Failure by D & M WSC to provide an intruder resistant fence. On 6/3/03, the lift station, located in the Farm to Market Road 2863 west side road ditch, was observed to not support a fence.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 317 317.3(a)

Rqmt Prov: PERMIT WQ 13927-001

Description: Failure by D & M WSC to provide protection from surface water inflow at Lift Station C. On 6/3/03, the lift station, located in Farm to Market Road 2863 west side road ditch, was observed to provide no protection to prevent stormwater runoff from flooding the wet well.

Date: 05/31/2004 (366847)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2004 (366848)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2004 (327078)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2004 (366849)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2004 (366850)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2004 (389951)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2004 (389952)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2004 (389953)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter.

Date: 02/28/2005 (389950)

Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	03/31/2005 (427458)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	06/30/2005 (447504)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	07/31/2005 (447505)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/31/2005 (447506)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	09/30/2005 (492399)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	10/31/2005 (492400)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	11/30/2005 (492401)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	12/31/2005 (492402)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/10/2006 (437573)		
Self Report?	NO	Classification:	Minor
Rqmt Prov:	PERMIT WQ 13927-001		
Description:	Failure by D & M WSC to install a testable backflow prevention device on the potable water supply line to the wastewater treatment plant.		
Self Report?	NO	Classification:	Minor
Rqmt Prov:	PERMIT WQ 13927-001		
Description:	Failure by D & M WSC to maintain an adequate liner in the facultative lagoon to control seepage from the lagoon. On 6/3/03, the synthetic liner in the facultative lagoon was observed floating in two areas.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.11(d)		
Rqmt Prov:	PERMIT WQ 13927-001		
Description:	Failure by D&M WSC to provide an effluent flow measurement device that conforms to those established in 30 TAC 319.11(d) for an acceptable means of effluent flow determination.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 317 317.3(b)(6)[G]		
Rqmt Prov:	PERMIT WQ 13927-001		

Description:	Failure by D & M WSC to provide ventilation in Lift Stations A, B, C, and D. On 6/3/03, the four lift stations serving the collection system were observed to not support a ventilation system.	
Self Report?	NO	Classification: Minor
Citation:	30 TAC Chapter 317 317.3(e)(5)	
Rqmt Prov:	PERMIT WQ 13927-001	
Description:	Failure by D & M WSC to provide audible alarms in Lift Stations A, B, C, and D. On 6/3/03, the four lift stations serving the collection system were observed to not support an audio-visual system. The lift stations were only equipped with visual alarms.	
Self Report?	NO	Classification: Minor
Citation:	30 TAC Chapter 317 317.3(e)(5)	
Rqmt Prov:	PERMIT WQ 13927-001	
Description:	Failure by D & M WSC to provide an operational visual alarm in Lift Station C. On 6/3/03, the lift station was observed to not support a functioning visual alarm.	
Self Report?	NO	Classification: Minor
Rqmt Prov:	PERMIT WQ 13927-001	
Description:	Failure by D & M WSC to provide an intruder resistant fence. On 6/3/03, the lift station, located in the Farm to Market Road 2863 west side road ditch, was observed to not support a fence.	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 317 317.3(a)	
Rqmt Prov:	PERMIT WQ 13927-001	
Description:	Failure by D & M WSC to provide protection from surface water inflow at Lift Station C. On 6/3/03, the lift station, located in Farm to Market Road 2863 west side road ditch, was observed to provide no protection to prevent stormwater runoff from flooding the wet well.	
Self Report?	NO	Classification: Minor
Rqmt Prov:	PERMIT D&SPC 1b	
Description:	Failure by the permittee to accurately complete the discharge monitoring reports (DMRs).	
Self Report?	NO	Classification: Minor
Rqmt Prov:	PERMIT OpR 1	
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.	
Self Report?	NO	Classification: Minor
Rqmt Prov:	PERMIT M&RR 1	
Description:	Failure by the permittee to submit an annual sludge report to the TCEQ Region 10 office and TCEQ Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 1 of each year.	
Self Report?	NO	Classification: Minor
Rqmt Prov:	PERMIT OpR 1	
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(5)	
Rqmt Prov:	PERMIT EL&MR 1 and 6	
Description:	Failure by D&M WSC to properly operate and maintain the plant in a manner to adequately treat the wastewater prior to discharge into waters of the state.	
Self Report?	NO	Classification: Moderate
Rqmt Prov:	PERMIT M&RR 7c	
Description:	Failure by the permittee to notify the TCEQ Region 10 Office and the Manager of the Enforcement Section III (MC 149) of the Enforcement Division, within the required notification period, for each effluent violation which deviated from the permitted effluent limitation by more than 40%.	
Self Report?	NO	Classification: Moderate
Rqmt Prov:	PERMIT EL&MR 1	
Description:	Failure by the permittee to discharge effluent that is compliant with permitted limitations.	
Self Report?	NO	Classification: Minor
Rqmt Prov:	PERMIT OpR 1	
Description:	Failure by the permittee to properly maintain the staff gauge.	
Date:	01/31/2006 (492397)	
Self Report?	YES	Classification: Moderate

Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	02/28/2006 (492398)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	03/31/2006 (506242)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	04/30/2006 (506243)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	05/31/2006 (506244)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	07/31/2006 (528480)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/31/2006 (528482)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/23/2007 (535682)		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.11(d)		
Rqmt Prov:	PERMIT WQ 13927-001		
Description:	Failure by D&M WSC to provide an effluent flow measurement device that conforms to those established in 30 TAC 319.11(d) for an acceptable means of effluent flow determination.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	30 TAC Chapter 305, SubChapter F 305.125(5)		
Rqmt Prov:	PERMIT EL&MR 1 and 6		
Description:	Failure by D&M WSC to properly operate and maintain the plant in a manner to adequately treat the wastewater prior to discharge into waters of the state.		
Self Report?	NO	Classification:	Moderate
Rqmt Prov:	PERMIT M&RR 7c		
Description:	Failure by the permittee to notify the TCEQ Region 10 Office and the Manager of the Enforcement Section III (MC 149) of the Enforcement Division, within the required notification period, for each effluent violation which deviated from the permitted effluent limitation by more than 40%.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Rqmt Prov:	PERMIT M&RR No. 7c		
Description:	Failure by D&M WSC to report greater than 40% noncompliances to the TNRC within the required notification period.		
Self Report?	NO	Classification:	Minor
Rqmt Prov:	PERMIT M&RR No. 3b		
Description:	Failure by the permittee to have records of analytical results readily available for review.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	30 TAC Chapter 317 317.3(b)(1)		



Rqmt Prov: PERMIT OpR No. 1  
Description: Failure by D&M WSC to provide a firm pumping capacity consisting of at least two operational pumps in Lift Station A.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
Rqmt Prov: PERMIT OpR No.1  
Description: Failure by D&M WSC to properly operate and maintain all systems of collection, treatment, and disposal.

Date: 11/30/2006  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2006  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2007  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2007  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2007  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
D & M WATER SUPPLY  
CORPORATION; RN102287604**

§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2007-1211-MWD-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding D & M Water Supply Corporation ("D & M") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and D & M, represented by Timothy J. Karczewski of the Law Offices of John D. Stover, presented this agreement to the Commission.

D & M understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, D & M agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon D & M.

The Commission makes the following Findings of Fact and Conclusions of Law:

### **FINDINGS OF FACT**

1. D & M owns and operates a wastewater treatment plant located approximately 6,500 feet west-southwest of the intersection of Farm-to-Market Road ("FM") 3228 and FM 1275 Nacogdoches, Nacogdoches County, Texas (the "Facility").

2. The Facility has discharged waste into or adjacent to any water in the state or has committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code.
3. During an investigation conducted on May 21, 2007, a TCEQ Beaumont Regional Office investigator documented that D & M:
  - a. Failed to comply with permitted effluent limitations as detailed in the following table:

<b>EFFLUENT PARAMETER</b>							
<b>Permit Limit</b>							
	BOD Daily Avg	(Loading) BOD Daily Avg	BOD Single Grab	TSS Daily Avg	(Loading) TSS Daily Avg	Dissolved Oxygen Minimum	pH Maximum
<b>Month/Year</b>	30 mg/l	25lbs/day	100 mg/l	90 mg/l	75lbs/day	4.0 mg/l	9.0 units
Mar-06	40	c	c	c	c	3.8	c
Apr-06	c	c	c	c	c	3.2	c
May-06	c	c	c	c	c	2.8	c
Jul-06	c	c	c	c	c	2.2	c
Aug-06	30.5	40.1	c	c	112	1.9	c
Nov-06	30.2	c	c	c	c	c	c
Dec-06	44.4	c	c	c	c	c	c
Jan-07	30.2	c	c	c	c	c	c
Feb-07	74.9	c	c	175	c	c	9.54
May-07	85.4	c	114	168	c	c	9.54

- b. Failed to submit effluent noncompliance notification reports as required by the permit. Specifically, noncompliance notification reports were not submitted for exceedances of the effluent permit limits by 40 percent or more during December 2006, February 2007, and May 2007.
  - c. Failed to provide standby pumps for lift stations. Specifically, lift station A was equipped with only one operational pump.

- d. Failed to ensure that the Facility and all of its systems of collection, treatment, and disposal are properly maintained. Specifically, the surface areas of lift stations A and B were covered with 90 to 100 percent grease and a scoured area was observed along the interior dike between the facultative lagoon and the southeast corner of the final wetland cell.
  - e. Failed to collect effluent monitoring samples at a frequency required by the permit. Specifically, no effluent samples were collected during discharge events that occurred from May 7, 2007, to May 20, 2007, and during bypass pumping of effluent from the facultative lagoon initiated on May 14, 2007.
4. D & M received notice of the violations on or about July 24, 2007.

#### CONCLUSIONS OF LAW

- 1. As evidenced by Finding of Fact Nos. 1 and 2, D & M is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
- 2. As evidenced by Finding of Fact No. 3.a., D & M failed to comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1); TPDES Permit No. 13927001, Effluent Limitations and Monitoring Requirements Nos. 1, 6, and 9; TCEQ Agreed Order Docket No. 2005-1625-MWD-E, Ordering Provision No. 2; and TEX. WATER CODE §§ 7.051(a)(1)(B) and 26.121(a).
- 3. As evidenced by Finding of Fact No. 3.b., D & M failed to submit effluent noncompliance notification reports as required by the permit. Specifically, noncompliance notification reports were not submitted for exceedances of the effluent permit limits by 40 percent or more during December 2006, February 2007, and May 2007, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 13927001, Monitoring and Reporting Requirements No. 7(c).
- 4. As evidenced by Finding of Fact No. 3.c., D & M failed to provide standby pumps for lift stations. Specifically, lift station A was equipped with only one operational pump, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 317.3(b)(1), and TPDES Permit No. 13927001, Operational Requirements No. 1.

5. As evidenced by Finding of Fact No. 3.d., D & M failed to ensure that the Facility and all of its systems of collection, treatment, and disposal are properly maintained. Specifically, the surface areas of lift stations A and B were covered with 90 to 100 percent grease and a scoured area was observed along the interior dike between the facultative lagoon and the southeast corner of the final wetland cell, in violation of 30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. 13927001, Operational Requirements No. 1.
6. As evidenced by Finding of Fact No. 3.e., D & M failed to collect effluent monitoring samples at a frequency required by the permit. Specifically, no effluent samples were collected during discharge events that occurred from May 7, 2007, to May 20, 2007, and during bypass pumping of effluent from the facultative lagoon initiated on May 14, 2007, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 13927001, Effluent Limitations and Monitoring Requirements, No. 1.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against D & M for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of twenty-eight thousand nine hundred eighty dollars (\$28,980.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Pursuant to TEX. WATER CODE § 7.067, twenty-eight thousand nine hundred eighty dollars (\$28,980.00) of the administrative penalty shall be conditionally offset by D & M's completion of a Supplemental Environmental Project (SEP) as defined in Attachment A, incorporated herein by reference. D & M's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

### ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
ORDERS that:

1. D & M is assessed an administrative penalty in the amount of twenty-eight thousand nine hundred eighty dollars (\$28,980.00) as set forth in Conclusion of Law No. 8 for violations of TCEQ rules and state statutes. The payment of this administrative penalty and D & M's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the

Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Twenty-eight thousand nine hundred eighty dollars (\$28,980.00) of the administrative penalty shall be conditionally offset by D & M's completion of an SEP.

2. D & M shall implement and complete a SEP in accordance with Tex. Water Code § 7.067. As set forth in Conclusion of Law No. 8, twenty-eight thousand nine hundred eighty dollars (\$28,980.00) of the assessed administrative penalty shall be offset with the condition that D & M implement the SEP defined in Attachment A, incorporated herein by reference. D & M's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. Administrative penalty payments for any portion of the administrative penalty not offset by a Supplemental Environmental Project or for any portion of the Supplemental Environmental Project deemed by the Executive Director as not complete shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: D & M Water Supply Corporation; Docket No. 2007-1211-MWD-E; Enforcement ID No. 34321" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

4. D & M shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, D & M shall develop and implement procedures to ensure that noncompliance notification reports are submitted, and begin submitting noncompliance notification to the TCEQ Beaumont Regional Office, for all effluent violations that deviate from the permit limit by more than 40 percent, as required by TPDES Permit No. 13927001, Monitoring and Reporting Requirements, No. 7(c);
  - b. Within 30 days after the effective date of this Agreed Order, D & M shall:
    - i. Ensure that all systems of collection, treatment, and disposal are properly operated and maintained including removal of grease from the surface areas of lift stations A and B, as required by TPDES Permit No. 13927001, Operational Requirements, No. 1; and

- ii. Develop and implement procedures to ensure that effluent monitoring samples are collected at a frequency required by the permit, as required by TPDES Permit No. 13927001, Effluent Limitations and Monitoring Requirements, No. 1.
- c. Within 60 days after the effective date of this Agreed Order, D&M shall install an additional discharge pump to ensure a firm pumping capacity with the largest pump out-of-service, as required by TPDES Permit No. 13927001, Operational Requirements, No. 1; and
- d. Within 75 days after the effective date of this Agreed Order, D & M shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with the effluent limits of TPDES Permit No. 13927001, Effluent Limitations and Monitoring Requirements, and Ordering Provision Nos. 4.a. through 4.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

D & M shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 4.a. through 4.c. to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

and

Ronald Herbert, Water Section Manager  
Texas Commission on Environmental Quality  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Freeway  
Beaumont, Texas 77703-1892

5. The provisions of this Agreed Order shall apply to and be binding upon D & M. D & M is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
6. If D & M fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, D & M's failure to comply is not a violation of this Agreed Order. D & M has the burden of establishing to the Executive Director's satisfaction that such an event has occurred. D & M shall notify the Executive Director within seven days after D & M becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by D & M shall be made in writing to the Executive Director. Extensions are not effective until D & M receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to D & M if the Executive Director determines that D & M has not complied with one or more of the terms or conditions in this Agreed Order.

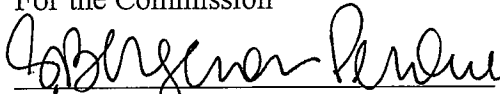


9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
10. This Agreed Order, issued by the Commission, shall not be admissible against D & M in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
11. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
12. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date is the date of hand-delivery of the Order to D & M, or three days after the date on which the Commission mails notice of the Order to D & M, whichever is earlier.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

7/16/2009

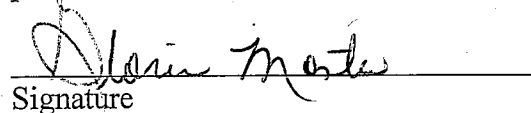
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of D & M Water Supply Corporation. I represent that I am authorized to agree to the attached Agreed Order on behalf of D & M Water Supply Corporation, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on D & M's compliance history;
- Greater scrutiny of any permit applications submitted by D & M;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against D & M;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution.

  
Signature

5/28/2009

Date

Gloria Montes

  
Name (printed or typed)

Board President

  
Title

Authorized Representative  
D & M Water Supply Corporation

**Attachment A**  
**Supplemental Environmental Project**

**Attachment A**  
**Docket Number: 2007-1211-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	D & M Water Supply Corporation
<b>Penalty Amount:</b>	Twenty-eight thousand nine hundred eighty dollars (\$28,980)
<b>SEP Offset Amount:</b>	Twenty-eight thousand nine hundred eighty dollars (\$28,980)
<b>Type of SEP:</b>	Pre-approved SEP
<b>Third-Party Recipient:</b>	Texas Association of Resource Conservation & Development Areas, Inc. ("RC&D") <i>Water or Wastewater Assistance</i>
<b>Location of SEP:</b>	Nacogdoches County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

**A. Project**

Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")** for the *Water or Wastewater Assistance project*. Specifically, SEP monies will pay for the labor and disposal costs associated with assistance to low-income residents with shallow, improperly designed, or contaminated drinking water wells or failing wastewater systems, or plugging of abandoned wells. The projects will be administered in accordance with federal, state, and local environmental laws and regulations.

Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

**B. Environmental Benefit**

The wastewater portion of this SEP will provide a discernible environmental benefit by preventing the release of sewage into the environment. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis. People can be exposed through:

- Sewage in drinking water sources.
- Direct contact in areas of public access such as in lawns or streets, or waters used for recreation.

- Shellfish harvested from areas contaminated by raw sewage.
- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

The drinking water portion of this project will protect water sources for drinking, recreation and wildlife from contamination from the failing treatment systems, and protect public health from contaminated drinking water supplies.

C. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Upon the Effective Date of this Agreed Order, the Respondent shall contribute \$16,980 to the Third Party Recipient. Within 30 days after the effective date of this Agreed Order, the Respondent shall begin making monthly contributions to the Third Party Recipient on the following payment schedule: one contribution of \$1,000 followed by eleven monthly contributions of \$1,000. The total amount of the contributions to the Third Party Recipient will be \$28,980. The Respondent shall ensure that these contributions have been completed within 13 months of the Effective Date of this Agreed Order. The Respondent shall mail a copy of the Final Agreed Order with the first contribution to:

Texas Association of Resource Conservation  
and Development Areas, Inc. (RC&D)  
1716 Briarcrest Drive Suite 510  
Bryan, Texas 77802-2700

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall submit a check for any remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the docket number of the case, and shall send it to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.